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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,424

07/25/2006

Rainer Garger

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER

BENVENUTI II, MATTHEW GEORGE

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,424	Applicant(s) GARGER, RAINER	
	Examiner Matt Benvenuti	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2009 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on January 30th, 2009 has been entered. Claims 1 and 3-7 remain pending in the application. Claim 2 has been cancelled.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the inner closure part that is undetachably connected to the wall in a peelable way (Claim 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 5 includes the limitation "the single common seam is located along a fold between the inner and outer closure parts," this limitation is not supported in the initial disclosure as the initial disclosure fails to disclose a fold between the inner and outer closure parts. **This is a new matter rejection.**

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re Claim 1, it is unclear what Applicant means by “undetachably” as it is unknown what is included within the scope of “undetachably.” For the purposes of examination it is taken to mean fused or an attachment that is not intended to be pulled apart.

In re Claim 7, it is unclear what Applicant means by “the inner closure part is connected to the wall in a peelable way.” The initial disclosure, Figure 2, shows the inner closure could be connected directly to one of the bag walls by a peelable seal, however Claim 7 depends on Claim 1 which Applicant has amended to include the limitation that the edge of the inner closure is “...undetachably connected to the front or the rear wall...” It is unclear how the inner closure can be both undetachably connected to the front or rear wall and connected in a peelable way.

All other Claims not specifically mentioned depend on a claim rejected under 35 USC 112, 2nd paragraph.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al (US 2004/0066990) in view of Malin et al (US 6,115,892).

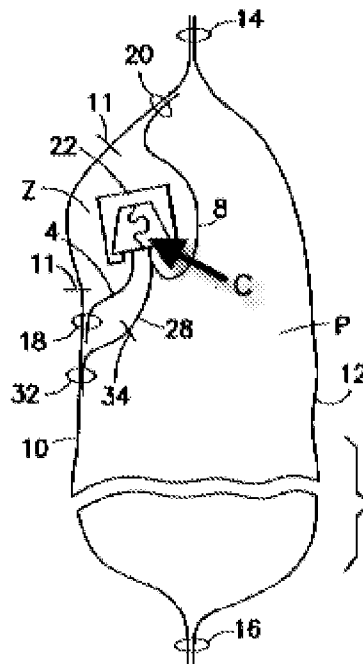


FIG. 4

In re Claim 1, Schneider et al, Figure 4, teaches a re-sealable bag comprising a closure (C) attached in an interior thereof to one of the front or rear walls (10, 12), with the closure (C) comprising inner and outer closure parts (4, 28), which have edges at a distance from a connecting or latching area of the closure (C), the edges undetachably connected to the front or rear wall (10, 12), and having free edges that are connected undetachably to the wall (18, 32) and with a safety strip (the part of the front wall between 11 and 11) over an opening in the wall above the latching area of the closure (C), the safety strip (the part of the front wall between 11 and 11) is configured so that it can be separated from the wall before an initial opening of the bag for exposing the opening ([0033], Lines 10-13), both of the closure parts (4, 28) are connected to the wall (10) underneath the opening and a cover sheet (8) is attached to the inner closure part

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(28) and also to the one of the front or rear walls (10, 12) above and to a side of the opening ([0032], Lines 8-13).

Schneider et al does not disclose that the edges of the inner and outer closure parts are connected to the front or rear wall by a single common seam. Malin et al, Figure 4, teaches closure member having inner and outer closure parts (22, 24) which are fused to each other and a front wall (34) at spot (38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to undetachably the connect the edges of the inner and outer closure members to the wall of Schneider et al, as taught by Malin et al. Such a modification would have been the use of a technique, sealing the edges together to the wall along a common point, which was known in the art.

In re Claim 3, the combination further teaches a bag wherein a lower edge of the cover sheet is fixed undetachably at the inner closure part (Schneider et al, Figure 4, 8 attaches to 28)

In re Claim 4, the combination further teaches a bag wherein the lower edge of the cover sheet is fixed directly on or at a distance to an inner grooved closure (Schneider et al, Figure 4, 8 attaches to 28 at a distance to the inner grooved closure (C)).

In re Claim 5, the combination further teaches a bag wherein the edges of the closure parts are connected to each other and the closure is produced in one part and the single common seam is located along a fold between the inner and outer closure parts (Malin et al, Figure 1).

In re Claim 6, the combination further teaches a bag wherein the cover sheet is produced in one part with the closure or with the inner closure part (Schneider et al, Figure 10 shows a closure with cover sheet attached thereto being applied to a film for production of bag).

In re Claim 7, Schneider et al further teaches a bag wherein the inner closure part is connected to the wall in a peelable way (Figure 3, with inner closure attached in a peelable way 30).

Response to Arguments

9. Applicant's arguments with respect to claims 1 and 3-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Benvenuti whose telephone number is (571)270-5704. The examiner can normally be reached on Monday - Friday: 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Matt Benvenuti/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782